

JAN 10 2005

FCC - MAILROOM

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

In the Matter of)	
)	
Amendment of Parts 1, 21, 73, 74 and 101 of the)	WT Docket No. 03-66
Commission's Rules to Facilitate the Provision of Fixed)	RM-10586
and Mobile Broadband Access, Educational and Other)	
Advanced Services in the 2150-2162 and 2500-2690)	
MHz Bands)	
)	
- Further Competitive)	WT Docket No. 03-67
Bidding Procedures)	
)	
Amendment of Parts 21 and 74 to Enable Multipoint)	MM Docket No. 97-217
Distribution Service and the Instructional Television)	
Fixed Service Amendment of Parts 21 and 74 to Engage)	
in Fixed Two-Way Transmissions)	
)	
Amendment of Parts 21 and 74 of the Commission's Rules)	WT Docket No. 02-68
With Regard to Licensing in the Multipoint Distribution)	RM-9718
Service and in the Instructional Television Fixed Service)	
for the Gulf of Mexico)	
)	
Promoting Efficient Use of Spectrum Through)	WT Docket No. 00-230
Elimination of Barriers to the Development of)	
Secondary Markets)	

To: The Commission

**COMMENTS OF
 THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA**

The School Board of Palm Beach County, Florida ("School Board"), hereby submits its limited comments in response to the Commission's Further Notice of Proposed Rulemaking in the above-referenced matter.¹ While the School Board generally supports the Comments being submitted simultaneously herewith by the

¹ *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report and Order ("R&O") and Further Notice of Proposed Rulemaking ("FNPRM"), FCC 04-135 (rel. July 29, 2004), 19 FCC Rcd 14165 (2004). A summary of the *Broadband Services Order* was published in the Federal Register on December 10, 2004, 69 Fed. Reg. 72,020.

National ITFS Association, it feels compelled to independently comment on one issue raised by the Commission in the *FNPRM*.

The School Board is the licensee of several ITFS (now "EBS") stations in and around Palm Beach, Florida including a grandfathered E-group Station KHU90. In its *FNPRM*, the Commission sought comment on the manner in which grandfathered E and F group ITFS licensees will be transitioned to the new band plan.² In 1983, the Commission redesignated the E and F group channels from the ITFS to the MDS service, but grandfathered existing E and F group stations like KHU90. However, the Commission's Rules restricted the modifications that could be made to such facilities and subjected them to possible displacement by commercial applicants. The School Board is currently facing such a displacement application, but based on the complexity of the matter, it is possible such displacement will not occur and that the School Board will continue to operate KHU90 as a grandfathered EBS station.

In the event that KHU90 is not ultimately displaced and continues to operate as a grandfathered EBS facility, the School Board will need the freedom to modify and operate such facility under the new Rules.³ Such a change in the Rules would be necessary to achieve the required transition to the new band plan and to allow such station to be used in the same manner as any other properly authorized EBS facility. Thus, grandfathered EBS facilities like KHU90 should be afforded a GSA under the Commission's Rules, in the same manner as any other EBS station. Such GSA would be arrived at by geographically splitting any overlaps in its Protected Service Area with those of co-channel stations, regardless of whether such stations are licensed in the EBS

² See *FNPRM* at ¶¶ 333-343.

or BRS service. Such grandfathered stations would then be free to modify their facilities in accordance with the new Rules within their own GSAs.

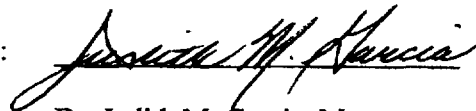
Further the Commission's Rules should make clear that any proponent seeking to transition a market would be subject to the same transition requirements for such grandfathered facilities as it would be for any other station operating in the EBS service.

Wherefore, the School Board respectfully requests that the Commission modify its rules and policies under the FNPRM in accordance with the discussion set forth herein.

Respectfully submitted,

THE SCHOOL BOARD OF PALM
BEACH COUNTY FLORIDA

By:

A handwritten signature in black ink, appearing to read "Judith M. Garcia", written over a horizontal line.

Dr. Judith M. Garcia, Manager
The Education Network of
The School District of Palm Beach
County, Florida

January 7, 2005

CERTIFICATE OF SERVICE

I, Judith M. Garcia, hereby certify that copies of the foregoing Comments of the School Board of Palm Beach County Florida have been served by First Class Mail this 7th day of January, 2005, on the following persons:

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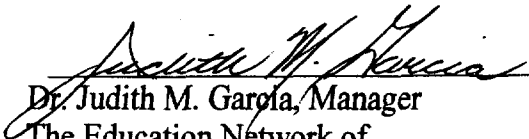
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